



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

BS

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/051,616	01/18/2002	Douglas Brown Dillard	08811.105001	9031
20786	7590	10/26/2004	EXAMINER	
KING & SPALDING LLP 191 PEACHTREE STREET, N.E. ATLANTA, GA 30303-1763				DESIR, PIERRE LOUIS
ART UNIT		PAPER NUMBER		
		2681		

DATE MAILED: 10/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/051,616	DILLARD ET AL.
Examiner	Art Unit	
Pierre-Louis Desir	2681	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 18 January 2002.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-10 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 18 January 2002 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |                                                                                                                                               |                                                                             |
|-----------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                                                   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                                          | Paper No(s)/Mail Date. _____                                                |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>07/12/2002</u> | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|                                                                                                                                               | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election with traverse of "telecommunication program distribution" corresponding to claims 1-10 (group 1) in the reply filed on Aug. 5, 2004 is acknowledged. The traversal is on the ground(s) that the examiner failed to demonstrate or even state that a serious burden will be placed on the examiner if the restriction is not required. This is not found persuasive because the inventions described in Group I, Group II, and Group III are distinct, and search group are not required to be simultaneous; therefore, a serious burden would be placed on the examiner to search three distinct and separate inventions.

The requirement is still deemed proper and is therefore made FINAL.

### ***Drawings***

2. The drawings are objected to because fig. 6 of the drawings is not clear (i.e. examiner could not make an adequate visual determination of to what the reference numbers disclosed in fig. 6 pertain to). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be

necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Objections***

3. Claim 2 is objected to because of the following informalities: "independent computer" should be "independent hand held computer." Appropriate correction is required.

Note: For the process of examination, "independent computer" will be treated as "independent hand held computer."

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-10 are rejected under 35 U.S.C. 102(e) as being anticipated by Perkowski, U.S.

Patent No. 6625581.

Regarding claim 1, Perkowski discloses a method for collecting data from a hand held computer and transmitting the data to a data center (i.e. Perkowski discloses a client machine, any mobile/hand-held internet-enabled device, which maintains collecting data and transmits

the data to a database) (see fig. 3A8, and col. 84, lines 58-67), the method comprising the steps of receiving a first data set, while the independent hand held computer is operating in an off-line mode and storing the first data set, in response to a determination that the receipt of the first data set is complete, establishing a communication link with data center, in response to a determination that the independent handheld computer has been functionally connected to the data center, thereby placing the independent hand held computer in an on-line mode, and transmitting the first data set to the data center, while the independent handheld computer is operating in an on-line mode (i.e. Perkowski discloses that while the computer system/client system is in the offline mode of operation, the manufacturer responds to a registration request from the server, then it creates a registration response, then establishes an internet connection with the server, which delivers the response to the server. Thus, one skill in the art would immediately envision and comprehend that by responding to a request while in the offline mode, data has to be received and completely stored for the response process to take place. Furthermore, the client computer system/client computer has to be functionally connected to the server for the Internet connection to be established. And, once a communication link is established, inherently the client computer/computer system is online) (see col. 82, lines 3-27).

Regarding claim 2 Perkowski discloses a method where a step of transmitting a second data set from the data center to the independent hand held computer, while the independent computer is operating in an on-line mode (i.e. Perkowski discloses a method where at the time of registration the server transmits a data to the manufacturer computer while online) (see col. 9, lines 39-44, and col. 80, lines 41-45).

Regarding claim 3 Perkowsky discloses a method where the data set is a standard order (see col. 81, lines 3-9).

Regarding claim 4, Perkowsky discloses a method where the second data set is a program module (i.e. computer program) (see col. 81, lines 3).

Regarding claim 5, Perkowsky discloses a method where the data center receives the second data set from a remote data processing system (i.e. Perkowsky discloses a method which involves carrying out communication between the server/data center and a remote data processing system) (see col. 80, lines 31-39, and col. 83, lines 19-31).

Regarding claim 6, Perkowsky discloses a method where the data center is further operative to transmit data to a remote data processing (i.e. As Perkowsky discloses a method which involves carrying out communication between the server/data center and a remote data processing system, thus one skill in the art would immediately envision that if there exists communication between the two; therefore, the data center should be operative to transmit data to the remote data processing system) (see col. 80, and col. 83, lines 19-31).

Regarding claim 7, Perkowsky discloses a method where the functional connection between the hand-held computer and the data center is a telephone connection (i.e. Perkowsky discloses that the server/data center is provided with a dial-up Internet connection to the internet infrastructure, thus one skill in the art would immediately envision that the functional connection between the hand-held computer and the server is a telephone connection because of the ability to make internet connection over the telephone lines) (see col. 24, lines 38-40).

Regarding claim 8, Perkowski discloses a method where the functional connection between the hand-held computer and the data center is an Internet connection (see col. 24, lines 38-40).

Regarding claim 9 Perkowski discloses a method where the data center is functionally connected to the remote data processing center over a telephone connection (i.e. Perkowski discloses a method which involves carrying out communication between the server/data center and a remote data processing system, and that he server/data center is provided with a dial-up Internet connection to the internet infrastructure, thus one skill in the art would immediately envision that the functional connection is a telephone connection because of the ability to make internet connection over the telephone lines) (see col. 24, lines 38-40, and see col. 80, and col. 83, lines 19-31).

Regarding claim 10 Perkowski discloses a method where the data center is functionally connected to the remote data processing center over an Internet connection (see col. 24, lines 38-40, and see col. 80, and col. 83, lines 19-31).

### ***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Sano, "Wireless Non-Connection Communication Apparatus and Control Method Therefor," U.S. Patent No. 6690887.

Art Unit: 2681

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pierre-Louis Desir whose telephone number is 703-605-4312. The examiner can normally be reached on Monday-Friday from 0800-1630.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David R Hudspeth can be reached on (703) 308-4825. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Pierre-Louis Desir  
Examiner  
AU 2681  
10/19/04

**JEAN GELIN**  
**PRIMARY EXAMINER**

